

The Devil Is in the Details: Practical Approaches to the EPA PFAS Reporting Rule for Imported Articles

Will Troutman

08 August 2024

Norton Rose Fulbright US LLP



Imported article reporting

To support EPA's continued obligation under TSCA to gather information on chemical usage, the EPA TSCA PFAS Reporting Rule requires:

- importers
- of any **article containing a PFAS substance**
- Imported after January 1, 2011
- To report to EPA to the extent known or reasonably ascertainable:
 - Chemical identity
 - Industrial and consumer use information, including if for children
 - Function of the PFAS
 - Max concentration of PFAS in the article
 - Imported volume of product (not volume of PFAS)
- Report by May 8, 2025 (November 10, 2025 for small importers)

Applicability

- Are you the importer of record for articles containing PFAS substances?
 - Importer of record
 - Party primarily responsible for payment of duties
 - If more than one party could meet definition, only one report is needed
 - Parties should determine who will report and ensure this has occurred, as EPA will hold all parties liable
- Articles
 - Finished goods
 - Components
- PFAS substances
 - Stain resistance
 - Waterproofing
 - Finishing/touch/feel
 - Manufacturing process

Whom do you need to ask at the company to understand current and historical processes and products?

Current state of information gathering

- No known industry consensus approach
- No known standardized approach to information gathering
- EPA guidance is helpful but not definitive
 - Covers the easy cases
 - Does not contain definitive “safe harbor”
 - But...unclear what enforcement will look like, if any....
- Clear that importers of articles containing PFAS must
 - Take some reasonable actions to assess obligations and obtain information
 - Report any applicable information
 - Document the journey!



While manufacturers and importers are expected to exercise ‘due diligence’ in looking for reportable PFAS and information, that effort will look different for different entities

EPA Final Rule

Best practices

- Agreement on risk appetite and resources (time, money and headcount)
- Written policies and procedures
- Defined roles and responsibilities
- Firm deadlines for internal and external processes
- Adequate lead time to review internal and external data and address any discrepancies
- Standardized recordkeeping
 - Documentation not only of information and results, but decision-making (e.g., applicability)
- Carefully consider who owns responsibility
 - Legal? Operations?

Process

- Applicability
- Due diligence
 - Internal assessment
 - External assessment
- Review and process data
- Follow up
- Address discrepancies
- Recordkeeping
- Reporting

Due diligence



This standard would require ... a reasonable inquiry within the full scope of their organization (not just the information known to managerial or supervisory employees).



This standard may also entail inquiries outside the organization to fill gaps in the submitter's knowledge. Such activities may, though not necessarily, include phone calls or email inquiries to upstream suppliers or downstream users or employees or other agents of the manufacturer, including persons involved in the research and development, import or production, or marketing of the PFAS.



EPA acknowledges that it is possible that ... an importer of articles containing PFAS, may not have knowledge that they have imported PFAS ... even after they have conducted their due diligence under this reporting standard.... Such an importer should document its activities to support and claims it might need to make related to due diligence.

Due diligence: internal assessment

- Sources of information
 - Any company personnel who might have knowledge of PFAS use
 - Any relevant data in company's possession from historical personnel
 - Any data on historical PFAS use
 - Specifications, formulations, design materials, bills of material, marketing information
 - Test data, SDS
- Relevant time period
 - January 1, 2011, to December 31, 2022

Due diligence: external assessment

- Develop survey/questionnaire
 - EPA article importer form
- Define recipient pool
 - Every supplier? Ability to narrow pool?
- Define process for sending out surveys/questionnaires
- Pilot
- Establish deadlines for responses
- Track responses and follow up for non-responsive entities
- Process response data
- Recordkeeping

Key issues for external assessment

- Explanatory information for upstream entities
- Designated personnel for answering questions
- Ability to gather contact information
- Approach to survey/questionnaire
 - Structured data
 - Logic flow
 - Pilot/testing for approach
- Addressing discrepancies
- Gameplan for managing unexpected information

Survey/questionnaire information

- Chemical identity—name, CAS number, molecular structure
- Industrial processing and use
 - Type, sector, and PFAS function
 - Standardized codes provided by EPA
- Consumer and commercial use
 - Product category
 - Function of PFAS
 - Standardized codes provided by EPA
 - Consumer or commercial use, or both
 - Maximum concentration in any product
 - Import volume of imported article (e.g., units, pieces)
 - Whether article was physically at site
 - Children’s product?

Follow up

- Non-responsive recipients
 - Any current business?
 - Reasonable basis to end inquiry?
- Bounce-backs, auto-replies
- Responses pointing to other recipients/entities

Review and process data

- Assess quality of responses to external survey/questionnaire
 - Follow up as appropriate with respondents
 - Incomplete, nonresponsive responses
- Collate survey/questionnaire responses with internal data
- Consider whether internal data conflicts with external data provided

Discrepancies

- Review and reconciliation of internal and external assessments
 - Does internal information directly contradict survey/questionnaire response?
 - Is follow up needed to get to reasonable position on inconsistent information? (e.g., follow up with respondent, independent research)
- EPA guidance makes clear that obvious misses create risk

Recordkeeping

- Five-year recordkeeping requirement
- Standardize processes and approaches
- Consider SOP for recordkeeping
- Key areas
 - Scope of internal assessment
 - Survey
 - List of targets
 - Tracking of respondents
 - Responses to inquiries
 - Follow up
 - Resolution of discrepancies
 - Bases for any choices on ambiguities

Reporting

- Deadlines:
 - May 8, 2025 for most
 - November 10, 2025 for small importers of articles
- Electronic reporting
- EPA submission portal on EPA Central Data Exchange (CDX)
 - Requires registration, creation of user ID and password
- Reporting must be submitted by the importer of record

**Delayed reporting for “small”
importers:**

- Less than \$120 million in annual sales and no more than 100,000 lbs of imported substance
- Less than \$12 million in annual sales regardless of import quantities

Guidance resources

- [EPA Reporting Rule Information Page](#)
- [EPA Instructions for Reporting PFAS Under TSCA Section 8\(a\)\(7\)](#)
- [EPA Small Entity Compliance Guidance for the TSCA PFAS Data Call](#)
- [EPA Webinar](#)
- [EPA list of PFAS Substances](#)
- [EPA CDX](#)



William L. Troutman

Partner, Los Angeles

+1 213 892 9208

william.troutman@nortonrosefulbright.com

www.consumerproductslawblog.com



nortonrosefulbright.com

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